Remarks

Claims 10, 11, 13, 15 and 16 have been amended with allowable Claims 11, 13, and 15 being rewritten in independent form, the details being set forth in Attachment I (Version with Markings to Show Changes Made).

The 35 USC 103 Rejection

Claims 1-10, 12, 14 and 16-20 are rejected under 35 USC 103 over Pawliszyn or Koehler et al. Applicants' copy of the application contains only 19 claims. Claims 1-15 are directed to a "field-deployable solid phase microextraction kit" which includes as set forth in Claim 1:

1. "a casing having a lid section",
2. "at least a plurality of hermetically sealed transport tubes located in said casing", and
3. "each transport tube securely retaining a solid phase microextraction (SPME) fiber syringe assembly."

The applied references are totally devoid of the features 1 and 2 above, and only teach a tube for an SPME fiber. The Examiner admits that the references fail to teach the claimed "kit" but contends that such a kit would be obvious to one skilled in the art. If the claimed kit is so obvious, there surely must be prior art to teach such, and the Examiner is called upon to cite specific which teaches the claimed subject matter or withdraw the rejection of Claims 1-15 on these references. To support a rejection under 35 USC 103, the reference relied upon must teach or suggest the features of the claims so rejected. Here, the two applied references fail to teach the features of parent Claim 1, let alone the features Claims 2-14.

As to Claims 16-19, Claim 16 sets forth "at least one hermetically sealed transport tube for a SPME fiber/syringe assembly. It is abundantly clear that the transport tube of Figure 14 of Pawliszyn is not "hermetically sealed" because the

lower end is open. The embodiment of Figure 2 of this reference is also no "hermetically sealed" since end 28 of connector 20 is open (see Col. 4, lines 8-13). Similar comments apply to the reference Koehler et al relative to Claims 16-19. Where are any teaching that the components are "hermetically sealed"?

In view of the foregoing, it is submitted that this ground of rejection is improper and that the features of Applicants' Claims 1-10, 12, 14, and 16-19.

Double Patenting Rejection

Claims "1-20" (1-19) are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-19 of copending Application No. 10/126,792. The Examiner contends that the claims are not patentably distinct from each other "because both are directed to a SPME device". Based on that very broad contention, only one patent could issue in the field of SPME devices, and such clearly is not the intent of this judicially created doctrine. A simple comparison on the claimed subject matter of the two applications will clearly refute this improper ground of rejection.

Allowed Subject Matter

Claims 11, 13, and 15, indicated as being allowable are now presented in independent form.

Conclusion

In view of the amendments to Claims 10 and 16, and the foregoing comments, the rejection under 35 USC 103 has been overcome, and the application placed in condition for allowance based on Claims 1-19. Any early indication of such an allowance is solicited.

Respectfully submitted,

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Enclosure:
Attachment I

Attachment I
S. N. 09/834,138
Version with Markings to Show Changes Made

In the Claims:

Claims 10, 11, 13, 15, and 16, amend to read as follows:

10. (Amended) The kit of Claim 1, wherein said transport tubes are composed of two interconnected sections constructed to be [he] hermetically sealed, each of said two sections having openings therein constructed to secure the SPME fiber/syringe assembly therein.

11. (Amended) A field-deployable solid phase microextraction kit comprising:

a casing having a lid section, and at least a plurality of hermetically sealed transport tubes located in said casing,

each transport tube securely retaining a solid phase microextraction (SPME) fiber syringe assembly,

said transport tubes being composed of two interconnected sections constructed to be hermetically sealed, each of said two sections having openings therein constructed to secure the SPME fiber/syringe assembly therein,

[The kit of Claim 10, wherein] said two interconnected sections of said transport tubes being [are] secured together by a twist/lock arrangement.

13. (Amended) A field-deployable solid phase microextraction kit comprising:

a casing having a lid section, and at least a plurality of hermetically sealed transport tubes located in said casing,

each transport tube securely retaining a solid phase microextraction (SPME) fiber syringe assembly,

said transport tubes being composed of two interconnected sections constructed to be hermetically sealed, each of said two sections having openings therein constructed to secure the SPME fiber/syringe assembly therein,

at least one seal in said two interconnected sections,

[The kit of Claim 12, wherein] one of said two interconnected sections including [include] an end section which extends into the other of said two interconnected sections, and wherein said seal comprises a pair of spaced O-ring mounted in its end section and constructed to contact an internal surface of said other said two interconnected sections.

15. (Amended) A field-deployable solid phase microextraction kit comprising:

a casing having a lid section, and at least a plurality of hermetically sealed transport tubes located in said casing,

each transport tube securely retaining a solid phase microextraction (SPME) fiber syringe assembly,

[The kit of Claim 1, wherein] said tool comprises a housing having a spring mounted plunger therein, said plunger having an opening therein, and said housing having an opening constructed to align with said opening in said plunger, whereby a protective cap is retained in said openings in said housing and said plunger by movement of said plunger, is released from being retained in said housing and said plunger by movement of said plunger.

16. (Amended) In an SPME kit, the improvement comprising; at least one hermetically sealed transport tube for a SPME fiber/syringe assembly,

said transport tube having a configured interior corresponding to an exterior of the SPME fiber/syringe assembly, whereby said assembly is secured within said transport tube.

said transport tube including a seal in one end through which an interior of said transport tube could be tested.